

1 Gregory G. Silvey
Assistant Attorney General
2 7141 Cleanwater Drive SW
Olympia, WA 98504-0126
3 (360) 586-6300
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6 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON
7 **AT SEATTLE**

8 PATRISHA AND STEVEN
SILLAVAN, individually and on behalf
9 of their minor children C.S., B.S., and
L.S.,

10 Plaintiff,

11 v.

12 STATE OF WASHINGTON
13 DEPARTMENT OF SOCIAL AND
HEALTH SERVICES and
14 KATHERINE GRAFF,

15 Defendants.

NO.

NOTICE OF STATE FILED COURT
DOCUMENTS

16 Attached to this Notice, filed herewith, are true and correct copies of the documents
17 filed in the Island County Superior Court File No. 14-2-00573-8.

18 DATED this 15th day of October, 2014.
19

20 ROBERT W. FERGUSON
Attorney General

21
22 /s/ Gregory G. Silvey
GREGORY G. SILVEY, WSBA No. 34117
23 Assistant Attorney General
Attorneys for Defendants
24 7141 Cleanwater Drive S.W., P.O. Box 40126
25 Olympia, WA 98504-0126
26

CERTIFICATE OF SERVICE

I hereby certify that on October 15, 2014, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Lincoln C. Beauregard, lincolnb@connelly-law.com
Julie A. Kays, jkays@connelly-law.com
Attorneys for Plaintiff

I hereby certify that on October 15, 2014, I caused to be delivered via ABC Legal Messenger to the following:

Lincoln C. Beauregard
Julie A. Kays
Connelly Law Offices, PLLC
2301 North 30th Street
Tacoma, WA 98403

/s/ Gregory G. Silvey
GREGORY G. SILVEY, WSBA No. 34117
Assistant Attorney General, Torts Division
P.O. Box 40126
Olympia, WA 98504-0126
(360) 586-6300

10646984

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2014 SEP 30 PM 2:35

ATTORNEY GENERAL'S OFFICE
TORTS DIVISION OLYMPIA

Washington State	
Office of the Attorney General	
Acknowledged Receipt, this 30 th day	
of September, 2014, Time: 2:30pm	
at Tumwater, Washington.	
Signature: <i>[Signature]</i>	
Print Name: Anne P. Tilley	
Assistant Attorney General	

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR ISLAND COUNTY

PATRISHA AND STEVEN SILLAVAN,
individually and on behalf of their minor
children C.S., B.S., and L.S.,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES and
KATHERINE GRAFF,

Defendants.

NO.

COMPLAINT FOR DAMAGES:
STATE CREATED DANGER -
SECTION 1983

JURY DEMANDED

COMES NOW Plaintiffs by and through their attorneys Lincoln C. Beauregard and
Julia A. Kays of the Connelly Law Offices by way of claim allege and state:

I. PARTIES AND JURISDICTION

1.1 Plaintiffs Patrisha and Steven Sillavan are adult residents of the State of
Washington and the parents of minor Plaintiffs C.S., B.S., and L.S..

1.2 Defendant Department of Social and Health Services is an agency and
subdivision of the State of Washington.

COMPLAINT FOR DAMAGES: WRONGFUL
STATE CREATED DANGER - SECTION 1983 - 1 of 10

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Tacoma, WA 98403
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ORIGINAL

1.3 Defendant Katherine Graff is an individual and employee of the State of Washington and Department of Social and Health Services.

II. BACKGROUND

2.1 Patrisha and Steven Sillavan are a married couple. In 2010 they decided to become foster parents, and went through the proper licensing procedures. In Summer 2011, the Sillavans were licensed as a foster home. Mr. and Mrs. Sillavan have two biological children of their own C.A. and B.A.. They have also adopted three foster children that have come into their care: A.S. (DOB: [REDACTED]/2008) L.S. (DOB: [REDACTED] 2006) and W [REDACTED] (DOB: [REDACTED] 2000).

2.2 This lawsuit concerns the outrageous conduct by DSHS, and its employee, Katherine Graff. The Department and its employee violated well established Departmental policies involving the placement of foster children into a home. The policy, as set forth in a 2002 department memorandum concerning Foster Care Placements, states that workers, such as Ms. Graff, must share pertinent history with the foster parent prior to placement. The memorandum further states that failure to comply with this policy will result in termination of the worker.

2.3 This policy was completely violated by the DSHS and its worker Katherine Graff. Prior to placing W [REDACTED] in the Sillavan foster home in March 2012, DSHS and social worker Graff failed to disclose the following highly concerning information about W [REDACTED]:

(1) In August 2010, W [REDACTED]'s foster parent told DSHS workers that W [REDACTED] had threatened children in her home with knives, threatened his mother with scissors, slapped a child at school, threw a chair at his principal, physically assaulted a younger child in the home, and

1 abused family pets; (2) W [REDACTED] sexually assaulted a child in his previous foster home; (3) The
 2 other children in the prior foster home asked their foster parents to lock up the kitchen knives
 3 because they feared they would be assaulted by W [REDACTED]; (4) While at his previous foster home
 4 social worker Graff put a safety plan in place prohibiting W [REDACTED] from having unsupervised
 5 contact with any children in March, 2011 due to his "impulsive/aggressive behavior towards
 6 younger kids"; (6) In January 2012-February 2012, at the request of social worker Graff,
 7 W [REDACTED] underwent a psychological evaluation which resulted in the following, disturbing
 8 diagnoses: "Axis I: Rule out psychotic disorder"; (7) That same doctor concluded that she
 9 was concerned regarding W [REDACTED]'s "unpredictable behavior" due to his "potentially psychotic
 10 and clearly violent thinking." She concluded that Westyn "should be supervised at school";
 11 (8) W [REDACTED]'s prior foster parent adopted his biological brothers, but refused to adopt W [REDACTED]
 12 due to his behavioral problems.
 13
 14

15 2.4 DSHS and its social worker Graff failed to provide the aforementioned
 16 information to the Sillavan family before W [REDACTED] was placed in their home for foster care, and
 17 prior to their adoption of him.

18 2.5 Predictably, once W [REDACTED] was in the Sillavan foster home, he began to sexually
 19 offend against the Sillavan children: C.S., B.S., and L.S. Mr. and Mrs. Sillavan were
 20 completely unaware of the fact that W [REDACTED] was molesting their children. The Sillavans
 21 decided to adopt W [REDACTED].
 22

23 2.6 The Department and social worker Graff blatantly violated yet another
 24 departmental policy when they failed to disclose important information to Mr. and Mrs.
 25 Sillavan prior to adopting W [REDACTED]. The Sillavans had no clue about W [REDACTED]'s past sexual
 26

COMPLAINT FOR DAMAGES: WRONGFUL
 STATE CREATED DANGER - SECTION 1983 - 3 of 10

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1 offenses and the significant nature of his psychotic disorder. The adoption of W [REDACTED] was
2 completed on March 1, 2013.

3 2.7 Shortly after the adoption went through, the Sillavan children -- C.S., B.S., and
4 L.S. -- disclosed that W [REDACTED] had sexually offended against each of them. Mr. and Mrs.
5 Sillavan were shocked. An investigation was conducted by the Island County Sheriff's
6 Department. W [REDACTED] admitted to the case detective that he had sexually offended against each
7 of the children, and was charged with two counts of Child Molestation in the First Degree.
8

9 2.8 It was only after the Sillavans had adopted W [REDACTED] and after C.S., B.S., and
10 L.S. disclosed the sexual abuse, that Mrs. Sillavan discovered the highly dangerous and
11 concerning history of W [REDACTED]. Mrs. Sillavan did not learn this information from the
12 Department or social worker Graff but learned this information on her own, by requesting
13 various documents.
14

15 2.9 The Department and its social worker breached the duty of care it owed to Mr.
16 and Mrs. Sillavan and their children C.S., B.S., and L.S. It was reasonably foreseeable and
17 highly predictable that W [REDACTED] would offend against other children in the home. These
18 failures, and breaches of the standard of care are a proximate cause of injury to Mr. and Mrs.
19 Sillavan, and their children C.S., B.S., and L.S.
20

21 2.10 Moreover, the Department and its social worker violated Patrisha, Steven,
22 I [REDACTED] C.S., B.S., and L.S.'s Fourteenth Amendment right to substantive due process by
23 placing a known danger (W [REDACTED]) in their home, and doing so with deliberate indifference to
24 the personal and physical safety of the aforementioned family members. The Department and
25
26

COMPLAINT FOR DAMAGES: WRONGFUL
STATE CREATED DANGER - SECTION 1983 - 4 of 10

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1 social worker Graff purposefully withheld important information to Patrisha and Steven
2 Sillavan about W [REDACTED] that thereby placed their family's safety in jeopardy.

3 2.11 Mr. and Mrs. Sillavan must now provide long term psychiatric care for
4 W [REDACTED]. He cannot be housed in the same home with other children, and they must provide a
5 separate residence for him. It will take years, and perhaps an indefinite amount of time to
6 provide W [REDACTED] counseling, and therapy for his psychiatric and sexual deviancy issues. Mr.
7 and Mrs. Sillavan will have to provide this care for W [REDACTED].

9 2.12 Mrs. and Mrs. Sillavan have experienced and will continue to experience
10 significant emotional distress, psychological distress, and other damages. They will suffer
11 and continue to suffer economic damages related to providing a separate residence for
12 W [REDACTED], and continued life time care for his psychological and sexual deviancy disorders.

14 2.13 The Department and its social worker Ms. Graff have engaged in outrageous
15 conduct. The Department and social worker Graff took advantage of the Sillavans' generosity
16 and willingness to provide care for foster children. The Department and social worker Graff
17 placed a dangerous young boy inside the Sillavan home, with full knowledge of his
18 psychiatric disorder and history of sexual offenses against children. The failure to disclose
19 this information fully to the Sillavan family is reprehensible, and outrageous conduct.

21 III. CAUSES OF ACTION

22 3.1 42 U.S.C. 1983 (Civil Rights Act) Against Defendant Katherine Graff:
23 Defendant Katherine Graff took affirmative steps to create the danger in the Sillavan home in
24 such a way that violated Plaintiffs' rights under the United State Constitution to include all
25 applicable Amendments including substantive due process under the Fourteenth Amendment.

26 COMPLAINT FOR DAMAGES: WRONGFUL
STATE-CREATED DANGER - SECTION 1983 - 5 of 10

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1 By taking these steps with deliberate indifference, Defendant Graff caused harm to all
 2 Plaintiffs in such a way that was avoidable and preventable.

3 3.2 Negligence Against All Defendants: The actions and omissions described
 4 herein caused harm to Plaintiffs in such a way that was avoidable and preventable.
 5 Defendants violated their own internal policies, practices, and mandates with regard to the
 6 creation of the dangers noted herein.
 7

8 3.3 Injury to Children – RCW 4.24.010 and 020: Patrisha and Steven Sillavan
 9 maintain causes of action under RCW 4.22.010 and 020 for injuries to their minor children
 10 described herein.


11 IV. PRAYER FOR RELIEF

12 WHEREFORE, Plaintiff, having set forth their causes of action herein against
 13 Defendants, prays for judgment against Defendants, for general and special damages in
 14 amounts as shall be proven at trial, punitive damages, and for reasonable attorneys fees in
 15 accordance with law, and otherwise, for Plaintiffs' costs and disbursements herein incurred,
 16 and for such other and further relief as the Court may deem just and equitable under the
 17 circumstances including appropriate injunctive relief and provided by law.
 18

19 Dated this 29th day of August, 2014.

20 CONNELLY LAW OFFICES, PLLC

21 By

22  (WSBA #42632)
 23 Lincoln C. Beauregard, WSBA No. 32878
 24 Julie A. Kays, WSBA No. 30385
 25 Attorneys for Plaintiffs

26 COMPLAINT FOR DAMAGES: WRONGFUL
 STATE CREATED DANGER – SECTION 1983 - 6 of 10

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APPENDIX: MEMO RE PLACEMENTS

COMPLAINT FOR DAMAGES; WRONGFUL
STATE CREATED DANGER – SECTION 1983 - 7 of 10

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STATE OF WASHINGTON
 DEPARTMENT OF SOCIAL AND HEALTH SERVICES
 P.O. Box 45019, Olympia, Washington 98504-5019

February 20, 2002

TO: All Children's Administration Staff

FROM: Rosie Oreskovich
 Assistant Secretary
 Children's Administration

SUBJECT: FOSTER CARE PLACEMENTS

I want to bring to your attention a very important issue for foster parents, foster children, and you. In the last two months, we have had two tort cases that will cost us over two million dollars. The errors in these cases are inexcusable. In both cases, we did not inform the foster parent of a significant sex abuse history, and the child abused other children in the foster home. In the first case, the child was moved to a second foster home and we failed to tell that foster parent as well. This is egregious casework and a lack of basic supervisory controls.

While I believe that all of you would agree with me, I want to make it absolutely clear that failure to share pertinent history (not just sexual abuse) with the foster parent prior to placement or in a timely manner as it becomes known is unacceptable.

You must read the case file. If the child is placed in an emergency by someone other than the assigned social worker, at the earliest possible time the assigned social worker has a duty to ensure the foster parent is fully informed. To me, this is the first priority in placement of the child and in maintaining that placement.

I expect all staff in the chain of command to ensure this policy is followed. Unless there is some mitigating circumstance, failure to comply will result in termination.

C: Dennis Braddock
 John Birnel

COMPLAINT FOR DAMAGES: WRONGFUL
 STATE CREATED DANGER - SECTION 1983 - 8 of 10

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3 **APPENDIX:**
4 **MEMO FROM OMBUDSMAN**
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COMPLAINT FOR DAMAGES: WRONGFUL
STATE CREATED DANGER – SECTION 1983 - 9 of 10

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STATE OF WASHINGTON
OFFICE OF THE FAMILY AND CHILDREN'S OMBUDS

6840 FORT DETWAIL WAY, SUITE 125
TUKWILA, WA 98188
(206) 439-3870 • (800) 571-7321 • FAX (206) 439-3877

March 11, 2014

Patisha A. Sillavan
1025 Lyle Ridge Circle
Oak Harbor, WA 98277

Dear Ms. Sillavan:

I am writing in reference to your complaint that our office received on August 2, 2013. We in the Office of the Family and Children's Ombuds (OFCO) sincerely appreciate you taking time to contact us about your concern regarding the Division of Children and Family Services' (DCFS) actions in your adopted son's case.

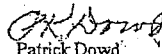
After careful investigation and review, we determined that, based on the information available to the department, DCFS' decision to place and maintain this youth in your home was unreasonable under the circumstances. Specifically, given the records and information we reviewed, we found that there was reasonable cause to believe that this youth could pose a risk if placed in the same home and left unsupervised with younger children. We have notified DCFS of our finding and concerns.

We recognize that our office is one of several avenues you may wish to pursue to address this issue. Please note, however, that as provided in RCW 43.06A.060, all OFCO work product, records, and case files "are confidential, are not subject to discovery, judicial or administrative subpoena, or other method of legal compulsion, and are not admissible in evidence in a judicial or administrative proceeding."

Please be assured that we have documented the issues you have raised, and we will include this finding against DCFS in our regular reports to the Governor and to the Legislature.

Once again, thank you for contacting our office, and please do not hesitate to contact us again if we can be of assistance to you.

Sincerely,


Patrick Dowd
Deputy Director

COMPLAINT FOR DAMAGES: WRONGFUL
STATE CREATED DANGER - SECTION 1983 - 10 of 10

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2014 SEP 30 PM 2:35

ATTORNEY GENERAL'S OFFICE
TORTS DIVISION OLYMPIA

Washington State	
Office of the Attorney General	
Acknowledged Receipt, this <u>30th</u> day	
of <u>September</u> , 20 <u>14</u> , Time: <u>2:20pm</u>	
in <u>Tumwater</u> , Washington.	
Signature: <u>[Signature]</u>	
Print Name: <u>Amee J. Tilger</u>	
Assistant Attorney General	

SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR ISLAND COUNTY

PATRISHA AND STEVEN SILLAVAN,
individually and on behalf of their minor
children C.S., B.S., and L.S.,

Plaintiff,

v.

STATE OF WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES and
KATHERINE GRAFF,

Defendants.

NO.

SUMMONS

TO: DEFENDANTS

A lawsuit has been started against you in the above-entitled court by the plaintiffs identified in the caption of this document. Plaintiffs' claims are stated in the written complaint, a copy of which is served upon you with this summons.

In order to defend against this lawsuit, you must respond to the complaint by stating your defense in writing, and by serving a copy upon the person signing this summons within 20 days after the service of this summons, excluding the day of service, or a default judgment may be entered against you without notice. A default judgment is one where the plaintiffs are

SUMMONS - 1 of 2

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Tacoma, WA 98403
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ORIGINAL

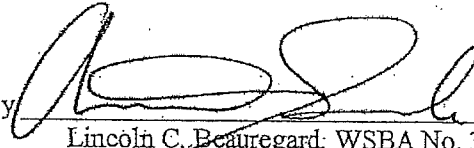
1 entitled to what they ask for because you have not responded. If you serve a notice of
2 appearance on the undersigned person, you are entitled to notice before a default judgment
3 may be entered.

4 If you wish to seek the advice of an attorney in this matter, you should do so
5 promptly so that your written response, if any, may be served on time.

6 This summons is issued pursuant to Civil Rule 4 of the Superior Court of the State
7 of Washington.
8

9 Dated this 29th day of August, 2014.
10

11 CONNELLY LAW OFFICES, PLLC

12 By  (WSBA # 42632)
13 Lincoln C. Beauregard, WSBA No. 32878
14 Julie A. Kays, WSBA No. 30385
15 Attorneys for Plaintiffs
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SUMMONS - 2 of 2

CONNELLY LAW OFFICES, PLLC
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Tacoma, WA 98403
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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR ISLAND COUNTY

PATRISHA AND STEVEN SILLAVAN,
individually and on behalf of their minor
children C.S., B.S., and L.S.,

Plaintiffs,

v.

STATE of WASHINGTON, DEPARTMENT
OF SOCIAL AND HEALTH SERVICES and
KATHERINE GRAFF,

Defendants.

NO.


DEMAND FOR JURY
OF TWELVE (12) PERSONS

COME NOW Plaintiffs in the above-captioned matter, by and through their attorneys of
record, Lincoln C. Beauregard and Julie A. Kays of Connelly Law Offices, PLLC and, pursuant
to statute and court rule, demand this case be tried by a jury of twelve ("12") persons and
herewith deposit to the registry of the court the jury fee required by law.

Dated this 3rd day of September, 2014.

CONNELLY LAW OFFICES, PLLC

By

 (WSBA #42632)
Lincoln C. Beauregard, WSBA No. 32878
Julie A. Kays, WSBA No. 30385
Attorneys for Plaintiffs

DEMAND FOR JURY OF TWELVE (12) - 1 of 1

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Tacoma, WA 98403
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STATE OF WASHINGTON
ISLAND COUNTY SUPERIOR COURT

PATRISHA AND STEVEN
SILLAVAN, individually and on behalf
of their minor children, C.S., B.S., and
L.S.,

Plaintiffs,

v.

STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES and
KATHERINE GRAFF,

Defendants.

NO. 14-2-00573-8

NOTICE OF APPEARANCE

(Clerk's Action Requested)

TO: PATRICIA and STEVEN SILLAVAN Individually and on behalf of their minor children
C.S., B.S., and L.S., Plaintiffs

TO: JULIE A. KAYS and LINCOLN C. BEAUREGARD, Plaintiffs' Attorneys

TO: CLERK OF THE COURT

YOU AND EACH OF YOU will please take notice that State of Washington, Department
of Social and Health Services, by and through its attorney, GREGORY G. SILVEY Assistant
Attorney General, without waiving objections as to improper service, jurisdiction or venue,
hereby enters its appearance in the above-entitled action and requests that notice of any and all
further proceedings in said action be served upon the undersigned attorney at the address stated
below.

NOTICE OF APPEARANCE

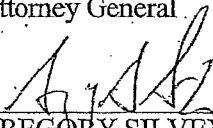
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ATTORNEY GENERAL OF WASHINGTON
Torts Division
7141 Cleanwater Drive SW
PO Box 40126
Olympia, WA 98504-0126
(360) 586-6300

1 TRANSMISSION BY FAX OR BY ELECTRONIC MAIL DOES NOT
2 CONSTITUTE SERVICE, UNLESS AGREED IN WRITING OR UNLESS OTHERWISE
3 REQUIRED BY COURT RULE.

4 DATED this 6th day of October, 2014.

5 ROBERT W. FERGUSON
6 Attorney General

7 
8 GREGORY SILVEY, WSB No. 34117
9 OID No. 91023
 Assistant Attorney General

PROOF OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

Julie A. Kays
Lincoln C. Beauregard
Connelly Law Offices
2301 North 30th Street
Tacoma, WA 98403

☐ US Mail Postage Prepaid via Consolidated Mail Service

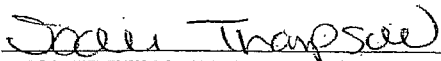
☒ ABC/Legal Messenger

☐ State Campus Delivery

☐ Hand delivered by _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 6th day of October, 2014, at Tumwater, WA.


JODIE THOMPSON, Legal Secretary

STATE OF WASHINGTON
ISLAND COUNTY SUPERIOR COURT

PATRISHA AND STEVEN
SILLAVAN, individually and on behalf
of their minor children, C.S., B.S., and
L.S.,

Plaintiffs,

v.

STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND
HEALTH SERVICES and
KATHERINE GRAFF,

Defendants.

NO. 14-2-00573-8

SPECIAL NOTICE OF
APPEARANCE

(Clerk's Action Requested)

TO: PATRICIA and STEVEN SILLAVAN Individually and on behalf of their minor children
C.S., B.S., and L.S., Plaintiffs

TO: JULIE A. KAYS and LINCOLN C. BEAUREGARD, Plaintiffs' Attorneys

TO: CLERK OF THE COURT

YOU AND EACH OF YOU WILL PLEASE TAKE NOTICE that the Defendant
Katherine Graff hereby enters her special appearance in the above-entitled action, specifically
reserving all her rights, including those relating to jurisdiction because of lack of service of
process and

SPECIAL NOTICE OF APPEARANCE

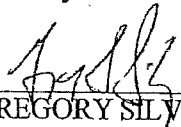
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ATTORNEY GENERAL OF WASHINGTON
Torts Division
7141 Cleanwater Drive SW
PO Box 40126
Olympia, WA 98504-0126
(360) 586-6300

1 insufficiency of service thereof, and further requests that all further papers, except original
2 process, be served upon the undersigned attorneys at their below-stated address.

3 DATED this 6th day of October, 2014.

4 ROBERT W. FERGUSON
5 Attorney General

6
7 
8 GREGORY SILVEY, WSB No. 34117
9 OID No. 91023
10 Assistant Attorney General
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PROOF OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

Julie A. Kays
Lincoln C. Beauregard
Connelly Law Offices
2301 North 30th Street
Tacoma, WA 98403

☐ US Mail Postage Prepaid via Consolidated Mail Service

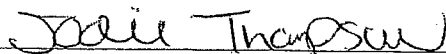
☒ ABC/Legal Messenger

☐ State Campus Delivery

☐ Hand delivered by _____

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 6th day of October, 2014, at Tumwater, WA.


JODIE THOMPSON, Legal Secretary